

Message Text

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SUBJ: NOTES ON PRC CITIZENSHIP POLICY

REF: PEKING 2689, PEKING 2286

1. IN A MEETING WITH USLO'S CONOFF, MFA DEPUTY DIVISION CHIEF IN CONSULAR AFFAIRS DEPARTMENT, FAN CHUNG-WU (STC: 5400 0022 2976) DISCUSSED PRC POLICY ON DUAL NATIONALITY. SUBJECT WAS DISCUSSED PRIMARILY IN THE CONTEXT OF US CITIZENS OF CHINESE DESCENT.

2. USLO CONOFF BROUGHT UP THE SUBJECT BY QUOTING FROM A 1975 LETTER WRITTEN BY AN OFFICER OF THE PRC EMBASSY IN CANADA WHICH SAID: (1) A CHILD BORN OVERSEAS TO PARENTS, EITHER OF WHICH IS OF CHINESE NATIONALITY, IS ENTITLED TO CHINESE NATIONALITY AT BIRTH. (2) THE CHINESE GOVERNMENT HAS NO OBJECTION TO OVERSEAS CHINESE, OF THEIR OWN DESIRE AND CHOICE, TAKING UP THE NATIONALITY OF THE COUNTRY IN WHICH THEY RESIDE. (3) ANY CHINESE WHO HAS TAKEN UP OF HIS OWN WILL OR ACQUIRED NATIONALITY OF THE COUNTRY IN WHICH HE RESIDES IS CONSIDERED TO HAVE AUTOMATICALLY FORFEITED CHINESE NATIONALITY.

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3. FAN AMPLIFIED THIS SAYING THAT THE PRC NOT ONLY HAS NO OBJECTION TO OVERSEAS CHINESE BECOMING CITIZENS OF THEIR COUNTRY OF RESIDENCE, BUT, IF FACT, APPROVES AND ENDORSES IT (TSAN CH'ENG). WHEN AN OVERSEAS CHINESE BECOMES A FOREIGN CITIZEN, FAN WENT ON, HE AUTOMATICALLY LOSES HIS CHINESE CITIZENSHIP. FAN SAID THAT, IN

GENERAL, NO MATTER HOW ONE ACQUIRED A FOREIGN NATIONALITY, ONE LOST HIS CHINESE CITIZENSHIP. IF A CHILD BORN OF CHINESE PARENTS GAINS FOREIGN NATIONALITY SIMPLY BY BEING BORN IN THAT FOREIGN STATE, THAT CHILD DOES NOT GAIN CHINESE NATIONALITY. WHEN IT WAS POINTED OUT THAT THIS SEEMS TO BE INCONSISTENT WITH THE PRINCIPLE THAT A CHILD GAINS CHINESE NATIONALITY IF EITHER PARENT IS CHINESE, FAN SAID THAT THE PRC DOES NOT APPROVE OF SITUATIONS PRODUCING DUAL NATIONALITY. THE IMPLICATION WAS THAT AS THE PRC HAS NO CONTROL OVER CITIZENSHIP LAWS OF FOREIGN COUNTRIES, IT WILL ADJUST ITS OWN CITIZENSHIP PRACTICE TO AVOID DUAL NATIONALITY SITUATIONS.

4. USLO HAS SEVERAL CASES WHERE PERSONS OF CHINESE DESCENT WERE BORN IN THE UNITED STATES AND BROUGHT TO CHINA AS CHILDREN, WHERE THEY HAVE REMAINED SINCE. MANY OF THESE PEOPLE SEEM TO BE CONSIDERED BY THE PRC GOVERNMENT TO BE CHINESE CITIZENS. THE CONOFF ASKED WHETHER SUCH A PERSON OBTAINED CHINESE NATIONALITY SIMPLY BY RETURNING TO CHINA AS CHILDREN. FAN SAID THAT SUCH A PERSON DID NOT AUTOMATICALLY GAIN CHINESE NATIONALITY SIMPLY BY RETURNING TO CHINA. IF, HOWEVER, SUCH A PERSON ACCEPTED THE BENEFITS AND FULFILLED THE OBLIGATIONS OF CHINESE NATIONALITY, THEN HE WOULD BE CONSIDERED A CHINESE CITIZEN. IN THE CASE OF CHAO YUN-HUI, PRC CITIZENSHIP IS UNDOUBTED BECAUSE LIMITED OFFICIAL USE

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SHE HAS ALWAYS LIVED AS A CHINESE CITIZEN AND HAD BEEN ADMINISTED (KUAN LI) AS SUCH. MAKING IT CLEAR THAT USLO WAS NOT CONTESTING MS. CHAO'S NATIONALITY, BUT WAS SEEKING ONLY A REFERENCE, THE CONOFF ASKED WHAT WERE THE SPECIFIC CIRCUMSTANCES OF CHAO'S ACQUISITION OF PRC NATIONALITY AFTER HER RETURN TO CHINA AS AN AMERICAN CITIZEN. FAN DID NOT KNOW THE DETAILS BUT OFFERED THAT, IF CHAO HAD PARTICIPATED IN ANY "POLITICAL ACTIVITIES" (CHENG CHIH HUO TUNG) WHICH ARE RESTRICTED TO CHINESE CITIZENS, SHE WOULD THEN BE CONSIDERED A CHINESE CITIZEN. FOR EXAMPLE, CHAO COULD HAVE BECOME A CITIZEN BY PARTICIPATING IN AN ELECTION AND CASTING A VOTE, OR BY JOINING AN ORGANIZATION WHOSE MEMBERSHIP IS RESTRICTED TO CHINESE CITIZENS. WHEN ASKED, FAN SAID THAT MEMBERSHIP IN A COMMUNE WAS NOT LIMITED TO CHINESE, NOR WAS MEMBERSHIP IN CERTAIN LABOR UNIONS. MEMBERSHIP IN THE CHINESE COMMUNIST PARTY, ON THE OTHER HAND, IS LIMITED TO CHINESE CITIZENS. IN CHAO YUN-HUI'S CASE THE "DEPARTMENT CONCERNED" HAD DECIDED THE MATTER AND FAN SAID THAT HE WOULD PASS USLO'S QUESTIONS ON TO THEM FOR A RESPONSE.

5. COMMENT: THIS SEEMS TO BE CONSISTENT WITH THE HANDLING OF THREE CASES DISCUSSED IN REFTEL. BERTHA LIU, ALTHOUGH BORN IN CHINA, WAS BORN OF PARENTS WHO BOTH ACQUIRED US CITIZENSHIP AT BIRTH AND WHO APPEAR NEVER TO HAVE TAKEN ON THE RIGHTS AND RESPONSIBILITIES OF CHINESE CITIZENS. BERTHA, HERSELF, CONTINUED TO REGISTER AS A U.S. CITIZEN EVEN AFTER 1949 AND WAS TREATED AS A FOREIGNER. CHAO YUN-HUI WAS BORN IN THE UNITED STATES AND ENTERED CHINA ON HER US PASSPORT. ALTHOUGH HER MOTHER MAY HAVE REGISTERED HER AS A CHINESE CITIZEN, CHAO INSISTS THAT THIS WAS DONE SO WITHOUT HER CONSENT. SHE HAD HELD ON TO HER US PASSPORT UNTIL 1966 WHEN IT WAS CONFISCATED
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AT THE BEGINNING OF THE CULTURAL REVOLUTION. THE PASSPORT WAS FINALLY RETURNED TO HER IN DECEMBER 1976 THROUGH THE EFFORTS OF HER WORK UNIT. AS SOON AS SHE HAD THE OPPORTUNITY SHE APPLIED FOR REGISTRATION AS AN ALIEN, BUT WAS REFUSED. IT APPEARS, HOWEVER, THAT CHAO MAY NEVER ACTUALLY HAVE ACCEPTED THE BENEFITS OF CHINESE CITIZENSHIP, BUT HAD MERELY BEEN SUBJECT TO THE LAWS AND CONTROLS PERTAINING TO CHINESE, SOMETHING QUITE INVOLUNTARY. THE FACT THAT CHAO'S TRAVEL TO THE UNITED STATES HAS BEEN APPROVED IN SPITE OF THE FACT THAT SHE HAS NO CLOSE US RELATIVES TO SPEAK OF, MAY INDICATE THAT THE CHINESE DO RECOGNIZE HERS AS BEING A BORDER-LINE CASE. FOR THE CHINESE, DANIEL KELLY'S CASE IS OPEN AND SHUT. HE WAS BORN IN CHINA OF A CHINESE CITIZEN MOTHER. HE HAS NEVER LIVED OVERSEAS AND THEREFORE COULD NOT ACQUIRE THE CITIZENSHIP OF A FOREIGN COUNTRY. WHETHER HE ACCEPTED THE RIGHTS AND OBLIGATIONS OF CHINESE CITIZENSHIP IS IMMATERIAL. CHINA DOES NOT RECOGNIZE DUAL NATIONALITY AND REFUSES TO RECOGNIZE KELLY'S US CITIZENSHIP.

6. WHETHER THESE GENERAL NATIONALITY PRINCIPLES WILL BE APPLIED CONSISTENTLY IN ALL CASES REMAINS TO BE SEEN. USLO HAS MANY PENDING CITIZENSHIP CASES WHICH WE HAVE BEEN RELUCTANT TO RAISE WITH THE MFA BECAUSE OF OUR UNFAMILIARITY WITH PRC CITIZENSHIP PROCEDURES. THESE CLARIFICATIONS BY THE MFA NOW OFFER A USEFUL STARGING POINT IN DISCUSSING ANY FUTURE US CITIZENSHIP MATTERS WITH THE PRC.
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